Prepare Your Organization for Major Changes to Federal Awards Requirements

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To WHAT Does it Apply?

- Direct federal awards and cooperative agreements
- Pass-through awards
- Procurement contracts under grants
- There are some exceptions
  - §200.101 and §200.102 of the CFR
## WHEN Does it Apply?

<table>
<thead>
<tr>
<th>Date</th>
<th>Item</th>
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<tbody>
<tr>
<td>12/26/13</td>
<td>Became applicable to Federal agencies</td>
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<tr>
<td>6/30/14</td>
<td>Federal agencies must submit to OMB their drafts for implementing the changes</td>
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<tr>
<td>12/26/14</td>
<td>Federal agencies’ regulations are uniformly effective for all federal awards or funding increments (to existing awards) issued after this date</td>
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<tr>
<td>12/26/14</td>
<td>New single audit changes for fiscal years beginning after 12/26/14 (i.e. calendar year 2015 Single Audits first to be impacted)</td>
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Procurement Standards
- Must maintain records to detail history of procurement (all procurements with Federal funds)
  - Rationale for method of procurement
  - Selection of contract type
  - Contractor selection/rejection
  - Basis for contract price

- Time and materials contracts only if no other suitable contract type and there is a ceiling price
  - Requires high degree of oversight
Competition §200.319

- Full and open competition
- Contractors developing/drafting specifications, requirements, statements of work, and invitations to bid or RFPs cannot compete for that procurement
- No geographical preferences unless Federal statute mandates or encourages
  – Trumps state laws
Competition §200.319

- Written procurement procedures
  - Clear and accurate description of technical requirements
  - Minimum essential characteristics
  - Detail product specifications should be avoided if at all possible
  - Identify all requirements offerors must fulfill
  - Identify factors used in evaluating bids/proposals
  - Prequalification lists must be current and include enough qualified sources to ensure open and free competition
Procurement Methods §200.320

- Micro-purchases (new for government)
  - Aggregate does not exceed $3,000
  - Distribute equitably among qualified suppliers
  - Simply need to consider price reasonable

- Small purchases
  - Cost less than Simplified Acquisition Threshold ($150,000)
  - Price or rate quotations from an adequate number of qualified sources
Sealed bids

- Use if complete specifications, two + responsible bidders, and lends itself to firm fixed-price contract
- Publicly advertise invitation for bids
- All bids publicly opened at time and place prescribed in invitation
- Firm, fixed-price contract awarded to lowest responsive and responsible bidder
- Document sound reasons for rejection
- Consider discounts, transportation costs, life cycle costs
Procurement Methods §200.320

- Competitive proposal
  - Use if conditions not appropriate for sealed bid
  - More than one source
  - Fixed-price or cost-reimbursement contract
  - Requests for proposals must be publicized and identify all evaluation factors and relative importance
  - Solicit from adequate number of qualified sources
  - Written method for conducting technical evaluations of proposals and selecting recipients
  - Award to “most advantageous” proposal including price and other factors
  - Only architectural/engineering can use selection without consideration of cost
Noncompetitive proposals (restrictions on usage new for NPOs)

- Solicitation from only one source
- Use if only available from one source, Or
- Use if public exigency or emergency that will not permit delay, Or
- Use if Federal awarding agency or pass-through entity expressly authorizes, Or
- After soliciting a number of sources, competition is determined inadequate
Minority, and women’s business firms §200.321

- Place on solicitation lists
- Solicit when potential sources
- Divide into smaller tasks or quantities to permit participation by smaller entities
- Delivery schedules to encourage participation
- Use assistance of organizations such as SBA and Minority Business Development Agency
- Require prime contractor to do the same if subcontracting out
Contract Cost and Price §200.323

- Must perform cost or price analysis in connection with every procurement over Simplified Acquisition Threshold
  - Includes contract modifications
  - Independent estimates prior to receiving bids or proposals
  - Negotiate profit as separate element of price if no competition and where cost analysis preformed
  - Cost plus percentage of cost not allowed
  - Percentage of construction cost method not allowed
Procurement Considerations

- Compare new requirements to existing, written procurement policies and procedures (if any)
- Evaluate existing circumstances which noncompetitive procurements were utilized
- Consider entity-wide change provision of the Super Circular’s effective date
Selected Items of Cost
Advertising - §200.421

- Allowable for
  - Recruitment of personnel required for performance of Federal award
  - Procurement of goods and services for Federal award
  - Disposal of materials from Federal award
  - Program outreach/purposes necessary for Federal award
Public Relations - §200.421

- Allowed for:
  - Specifically required by Federal award
  - Communicating with public and press on specific activities accomplishments of Federal award (outreach)
  - General liaison to the news and government relations to extent limited to communication and liaison necessary to keep public informed on matters of public concern
Unallowable Advertising Public Relations - §200.421

- Other advertising and public relations
- Meetings conventions and other events other than those to disseminate technical information beyond non-Federal entity where necessary for Federal award
  - Displays, demonstrations, exhibits
  - Meeting rooms, hospitality suites, etc.
  - Salaries and wages of those setting up and displaying
  - Promotional items and memorabilia
  - Advertising and public relations solely to promote non-Federal entity
Depreciation §200.436

- No use allowance
- GAAP; specifically states straight line
  - Must match book
- Indirect cost
- Cannot be depreciated and claimed as match
- Does not include Federal participation amounts
- Adequate property records and physical inventories taken every 2 years
Fund Raising - §200.442

- Unallowable
- Fund raising including financial campaigns, endowment drives, solicitation of gifts, similar expenses to raise capital
  - Fundraising costs for purposes of meeting Federal program objectives are allowable with prior written approval
- Proposal costs – see next slide
Preparation of bids, proposals, or applications on potential Federal and non-Federal awards

- Both successful and unsuccessful bids
- Indirect costs

No proposal costs of past accounting periods are allocable in the current period
Property Standards
Equipment §200.313

- Cannot encumber without approval

Usage:
- Authorized purposes of project while funded
- Activities under a Federal award from the same funding agency
- Activities under a Federal award from a different funding agency
- Projects or programs previously supported by Federal Government

- Cannot use equipment to provide services for fee less than private companies
Equipment – Property Records §200.313

- Description
- Serial or other identification number
- Source of funding, including the FAIN
- Who holds title
- Acquisition date
- Cost
- Percentage Federal participation
- Location
- Use
- Condition
- Ultimate disposition
Equipment §200.313

- Physical inventory once every two years
- Adequate safeguards to prevent loss, damage, or theft
- Adequate maintenance procedures
Equipment - Disposition §200.313

- Do not need disposition instructions if continuing to use in Federal program
- Current FMV $5,000 or less, no further obligation to Federal awarding agency
- Request Federal awarding agency disposition instructions
- If keep equipment owe Federal awarding agency current FMV times Federal % participation
Equipment - Disposition §200.313

- If sell equipment, owe Federal agency sales proceeds x Federal % participation less lower of $500 or 10% of sales proceeds.
- May be requested to transfer title to Federal government or 3rd party (would be compensated for % of nonfederal participation).
Supplies §200.314

- Residual inventory of unused supplies at end of grant exceeds $5,000
  - Usage and compensation same as for equipment
- Includes “computing devices” that qualify as supplies
Program Income
Program Income - §200.80

- Gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance
Program Income §200.307

- Deduction
- Addition
- Cost sharing or matching
- All methods require program income pay for otherwise allowable expenses
Questions?
**Current Action Steps**

- **Take the deep dive**
  - Commentary to the Federal Register is very helpful
  - Cross references are extremely helpful and accurate!
  - Finally familiarize yourself with the updated compliance requirements

- **Communicate proposed uniform guidance to internal stakeholders.** Ensure no confusion over effective dates.
Current Action Steps

- Evaluate current policies and procedures that incorporate OMB circular references and related compliance requirements
  - Will need to be updated
- Begin discussions on the impact of key provisions
  - (Compensation costs, procurement, indirect cost recovery)
Resources

- OMB
  - http://www.whitehouse.gov/omb/financial_default/
- Federal Register and preamble
  - https://federalregister.gov/a/2013-30465
- COFAR
  - https://cfo.gov/cofar/
  - Includes webcasts and FAQs
- Crosswalk
  - http://www.whitehouse.gov/omb/grants_docs
Resources

- Federal Audit Clearinghouse Internet Data Entry System
  - [https://harvester.census.gov/facides/(S(dgs1qw3wrpggty2k1arfjok))/account/login.aspx](https://harvester.census.gov/facides/(S(dgs1qw3wrpggty2k1arfjok))/account/login.aspx)

- OMB M 13-17 (Evidence and innovation agenda)
Resources

- **COSO Principles and Points of focus**

- **Green Book**
Thank You

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